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Oracle USA, Inc., Oracle America, Inc., and
Oracle International Corp.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation;
ORACLE AMERICA, INC., a Delaware
corporation; and ORACLE INTERNATIONAL
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;
AND SETH RAVIN, an individual,

Defendants.

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Case No. 2:10-cv-0106-LRH-PAL

**ORACLE'S [PROPOSED] LIMITING
INSTRUCTION**

[PROPOSED] LIMITING INSTRUCTION

At trial on September 14, 2015, the Court requested that the parties submit a proposed limiting instruction concerning hypothetical questions asked during the depositions of Rimini customers about whether the customers would have been willing to contract for support with Rimini if they had known certain facts about Rimini's service. The parties have met and conferred and were unable to agree on a proposed limiting instruction. Rimini's proposed instruction was several paragraphs long and heavily argumentative, designed to imply judicial skepticism of the witness's testimony, rather than a short, neutral limiting instruction. Accordingly, Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corporation propose the following instruction:

"You have just heard testimony about whether a Rimini customer would have been willing to contract for services with Rimini if that customer had known certain information about Rimini's services or conduct. You should not assume from the question that the referenced information about Rimini's services or conduct was true or not true; that is for you to decide."

Authority: See 9/14/2014 Trial Tr. at 124:12-126:2 (rough) ("And needless to say if at the end of the case the evidence turns out not to have supported at all a reasonable inference that would have allowed the question -- the nature of the questions being asked, the Court would consider a motion to strike at that time . . . the question also assumes certain conclusions. And I think the limiting nature of the instruction should be directed at that as well."); *United States v. Cuti*, 720 F.3d 453, 459-60 (2d Cir. 2013) ("a witness may testify to the fact of what he did not know and how, if he had known that independently established fact, it would have affected his conduct or behavior"; "When the issue for the fact-finder's determination is reduced to impact—whether a witness would have acted differently if he had been aware of additional information—the witness so testifying is engaged in 'a process of reasoning familiar in everyday life.'") (quoting Fed. R. Evid. 701 advisory committee's note, 2000 amend.), *cert. denied*, 135 S. Ct. 402, 190 L. Ed. 2d 289 (2014), and *cert. denied sub nom. Tennant v. United States*, 135 S. Ct. 402 (2014), and *cert. denied*, 135 S. Ct. 402, 190 L. Ed. 2d 289 (2014), and *cert. denied sub nom. Tennant v. United States*, 135 S. Ct. 402 (2014).

1 DATED: September 15, 2015

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3 Morgan, Lewis & Bockius LLP

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5 By: /s/ Thomas Hixson
6 Attorneys for Plaintiffs
7 Oracle USA, Inc., Oracle America, Inc.
8 and Oracle International Corp.
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